

SENATE BILL NO. 236

INTRODUCED BY D. GRIMES, CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING LEGISLATORS A WINDOW DURING WHICH THEY MAY BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AMENDING SECTION 19-3-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-3-412, MCA, is amended to read:

"19-3-412. Optional membership. (1) The following employees in covered employment may become members of the retirement system at their option by filing an irrevocable, written application with the board within 180 days of commencement of their employment:

(a) elected officials of the state or local governments who are paid on a salary or wage basis rather than on a per diem or other reimbursement basis;

(b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;

(c) employees directly appointed by the governor;

(d) employees working 6 months or less for the legislative branch to perform work related to the legislative session;

(e) the chief administrative officer of any city or county;

(f) employees of county hospitals or rest homes in counties of the third, fourth, fifth, sixth, and seventh class.

(2) (a) Employees Except as provided in subsection (2)(b), employees and officials described in subsections (1)(a) through (1)(f) who are employees or officials but not members on July 1, 1999, have until December 1, 1999, to file an irrevocable, written application with the board.

(b) A legislator may also become a member as of the date prior to December 30, 2000, that the legislator filed an irrevocable written application with the board to become a member and paid the employee share of contributions determined by the board to be required to purchase the legislator's prior

service. However, the legislator shall purchase at least 5 years of service credit, or if the legislator has less than 5 years of membership service, service credit equal to all of the legislator's membership service. The legislative branch is responsible for paying the amount determined by the board to be the employer's share of contributions required to purchase a legislator's service under this subsection (2)(b).

(3) If an employee declines optional membership, the employee shall execute a statement waiving membership and the employer shall retain the statement. An employee who declines optional membership may not receive membership credit or service credit for the employment for which membership was declined.

(4) An employee who declined optional membership but later becomes a member may qualify service credit for the period of time beginning with the date of employment in which membership was declined to the commencement of membership. Qualification of service pursuant to this subsection must comply with 19-3-505.

(5) Membership in the retirement system is not optional for an employee who is already a member. Upon employment in a position for which membership is optional:

(a) a member who was an active member before the employment remains an active member;

(b) a member who was an inactive member before the employment becomes an active member;

and

(c) a member who was a retired member before the employment is subject to part 11 of this chapter.

(6) An employee who declines membership while employed in a position for which membership is optional may not later become a member while still employed in that position. If, after a break in service of 30 days or more an employee who was a member in an optional membership position is reemployed in the same position or is employed in a different position for which membership is optional, the employee shall again choose or decline membership. However, if the break in service is less than 30 days, an employee who declined membership is bound by the employee's original decision to decline membership.

(7) An employee accepting a position that requires membership shall become a member even if the employee previously declined membership and did not have a 30-day break in service.

(8) If an employee or official fails to file with the board an irrevocable, written application within the time allowed in this section, the employee or official waives membership."

1 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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3 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the
4 meaning of 1-2-109, to all persons who were legislators on July 1, 1999.

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